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ABSTRACT

Lau vs Nichols is a 1974 Supreme Court decision which charged that the San Francisco Unified School District had denied equal educational opportunity to non-English-speaking students by failing to provide them with any special language instruction. The court decision was based on Title VI of the Civil Rights Act of 1964 which provides against discrimination in Federal programs, and on a Department of Health, Education, and Welfare memorandum that presents guidelines concerning school district responsibilities toward minority group children deficient in English language skills. The decision stimulated action toward equal educational opportunities for language minorities and resulted in the establishment of National Origin Desegregation Centers (NODAC) which help local school districts meet national origin minority students' needs. An Office of Civil Rights Task Force formulated the Lau remedies, guidelines based on the Lau decision, for meeting the educational needs of limited English speaking students through bilingual and other programs designed to bring program participants up to the educational levels of their English speaking peers. Complimenting the provisions of the Lau remedies is the Equal Educational Opportunities Act of 1974 which gives language minorities a statutory right to demand effective language programs from all school districts. (Author/MJL)

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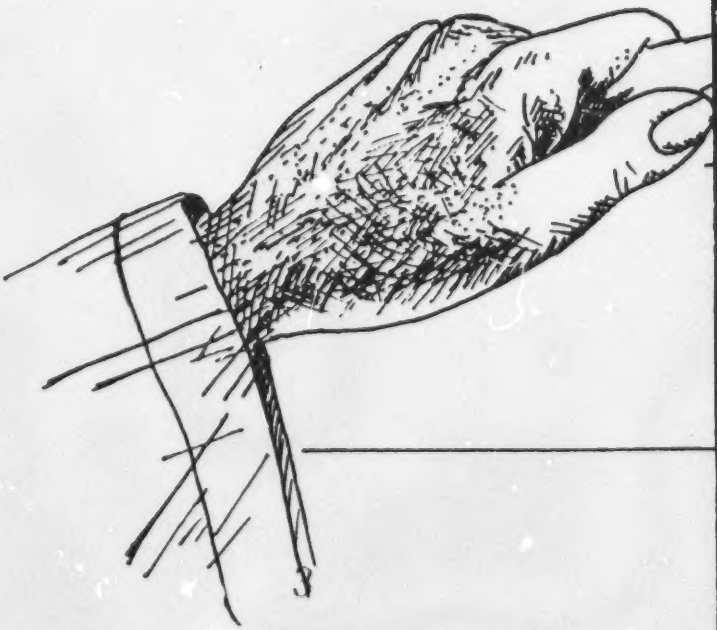
WHAT IS THE LAU DECISION?

WHAT DOES IT MEAN FOR MAINE?

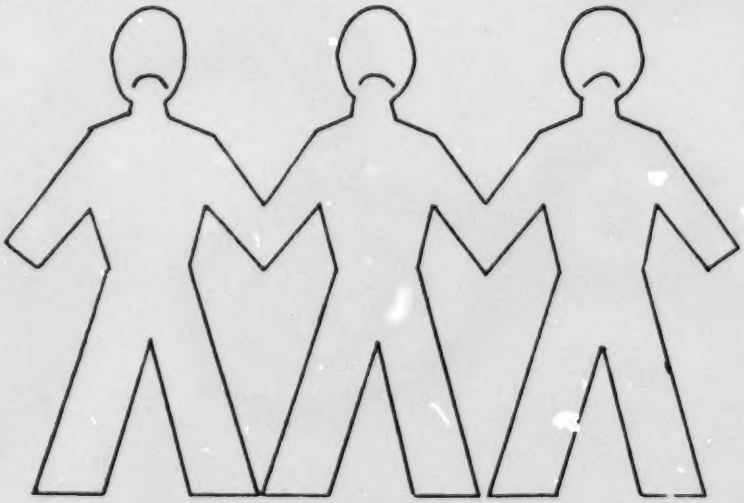


WHAT IS LAU vs. NICHOLS?

IT IS A 1974 SUPREME COURT DECISION WHICH CHARGED THAT THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT HAD DENIED EQUAL EDUCATIONAL OPPORTUNITY TO NON ENGLISH SPEAKING STUDENTS BY FAILING TO PROVIDE THEM WITH ANY SPECIAL LANGUAGE INSTRUCTION.

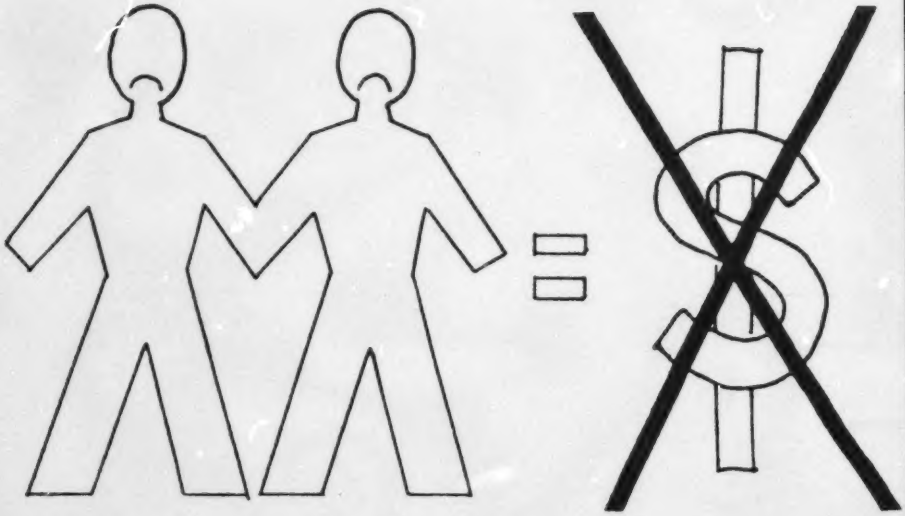
ON WHAT DID THE SUPREME COURT BASE ITS DECISION?

THE SUPREME COURT RULED THAT THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT WAS GUILTY OF DISCRIMINATION ACCORDING TO TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, SECTION 601 AND SECTION 602.



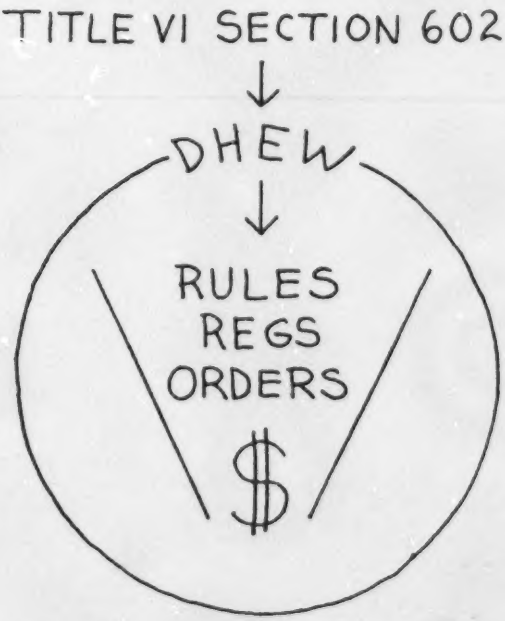
WHAT DOES SECTION 601 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 SAY?

IT STATES "NO PERSON MAY BE DISCRIMINATED AGAINST BASED ON THE GROUNDS OF RACE, COLOR, SEX, OR NATIONAL ORIGIN IN ANY PROGRAM OR ACTIVITY RECEIVING FEDERAL FINANCIAL ASSISTANCE."



WHAT DOES SECTION 602 OF TITLE VI CIVIL RIGHTS ACT OF 1964 SAY?

IT GOES TO SAY THAT THE U.S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE HAS THE AUTHORITY TO ISSUE RULES, REGULATIONS, AND ORDERS TO MAKE SURE THAT RECIPIENTS OF FEDERAL AID UNDER ITS JURISDICTION CONDUCT ANY FEDERALLY FINANCED PROJECTS CONSISTENTLY WITH TITLE VI SECTION 601.



DID THE SUPREME COURT ACTUALLY CITE A DHEW RULE OR REGULATION WHICH HAD BEEN VIOLATED BY THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT IN THE LAU DECISION?

YES. THE SUPREME COURT RULED THAT THE SCHOOL DISTRICT DID NOT ADEQUATELY MEET THE REGULATIONS IN THE DHEW MAY 25, 1970, MEMORANDUM.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

May 25, 1970

MEMORANDUM

TO : School Districts With More Than Five Percent National Origin-Minority Group Children

FROM : J. Stanley Pottinger
Director, Office for Civil Rights

SUBJECT : Identification of Discrimination and Denial of Services on the Basis of National Origin

Title VI of the Civil Rights Act of 1964, and the Departmental Regulation (45 CFR Part 80) promulgated thereunder, require that there be no discrimination on the basis of race, color or national origin in the operation of any federally assisted programs.

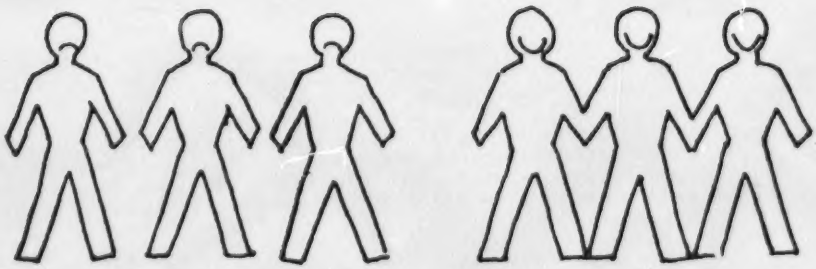
Title VI compliance reviews conducted in school districts with large Spanish-surnamed student populations by the Office for Civil Rights have revealed a number of common practices which have the effect of denying equality of educational opportunity to Spanish-surnamed pupils. Similar practices which have the effect of discrimination on the basis of national origin exist in other locations with respect to disadvantaged pupils from other national origin-minority groups, for example, Chinese or Portugese.

The purpose of this memorandum is to clarify D/HEW policy on issues concerning the responsibility of school districts to provide equal educational opportunity to national origin-minority group children deficient in English language skills. The following are some of the major areas of concern that relate to compliance with Title VI:

(1) Where inability to speak and understand the English

WHAT WAS THE MAY 25 MEMORANDUM?

THE MAY 25 MEMORANDUM WAS ISSUED BY THE DHEW IN 1970 TO SCHOOL DISTRICTS WHICH HAD MORE THAN 5% NATIONAL ORIGIN MINORITY STUDENTS. THE MEMO INTERPRETED TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AND AS SUCH IT PROVIDED GUIDELINES CONCERNING THE RESPONSIBILITY OF SCHOOL DISTRICTS TO PROVIDE EQUAL EDUCATIONAL OPPORTUNITY TO NATIONAL ORIGIN MINORITY GROUP CHILDREN DEFICIENT IN ENGLISH LANGUAGE SKILLS.



WHAT IS THE IMPACT OF THE LAU DECISION?

---THE LAU DECISION HAS UPHELD THE RIGHT OF NON OR LIMITED ENGLISH SPEAKING STUDENTS TO HAVE EDUCATIONAL PROGRAMS WHICH MEET THEIR LANGUAGE SKILL NEEDS.

---THE LAU DECISION GAVE IMPETUS TO THE MOVEMENT FOR EQUAL EDUCATIONAL OPPORTUNITIES FOR LANGUAGE MINORITIES AND LED TO THE CONCEPT OF NATIONAL ORIGIN DESEGREGATION.

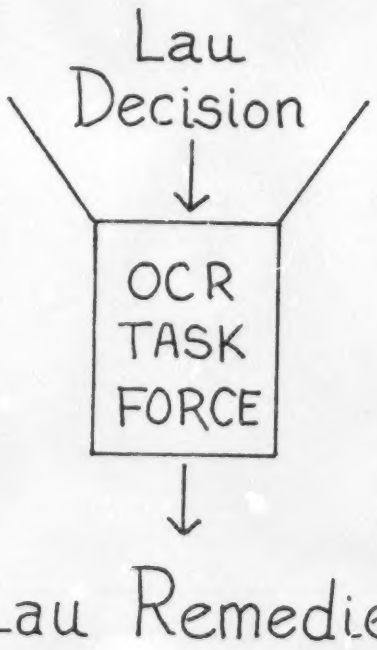
---THE LAU DECISION STIMULATED AWARENESS OF THE NEED FOR BILINGUAL EDUCATION THROUGHOUT THE NATION.

---THE LAU DECISION STIMULATED NUMEROUS LAW SUITS ON BEHALF OF NON OR LIMITED ENGLISH SPEAKING STUDENTS, IN PUBLIC SCHOOLS.

---AS A RESULT OF THE LAU DECISION, DHEW PROVIDED FEDERAL MONIES TO CONDUCT NATIONAL ORIGIN DESEGREGATION CENTERS THROUGHOUT THE COUNTRY. THE NODAC CENTERS, AS THEY ARE CALLED, HELP LOCAL DISTRICTS MEET THE NEEDS OF NATIONAL ORIGIN MINORITY STUDENTS.

WHAT ARE THE LAU REMEDIES?

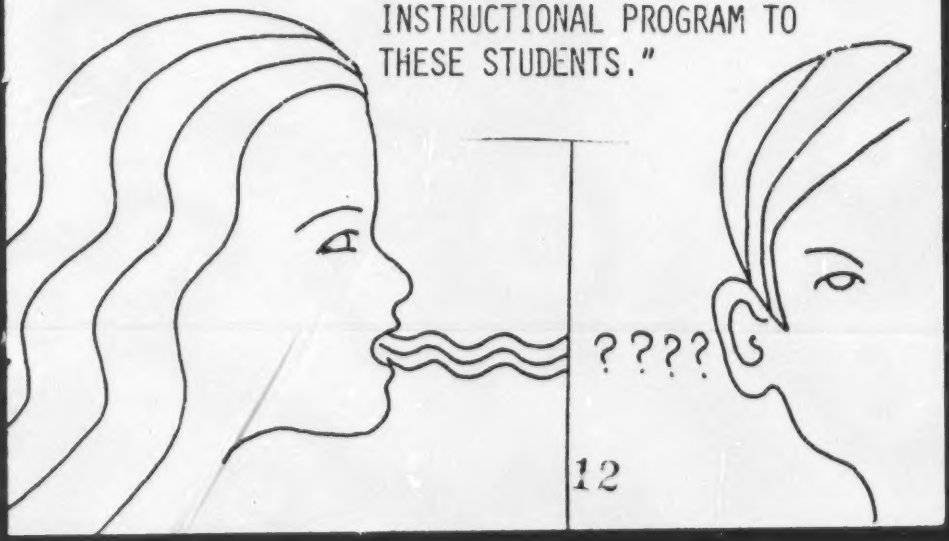
THE LAU REMEDIES ARE GUIDELINES FOR MEETING THE EDUCATIONAL NEEDS OF NON OR LIMITED ENGLISH SPEAKING STUDENTS. THEY WERE PREPARED BY AN OFFICE OF CIVIL RIGHTS TASK FORCE IN ORDER TO INTERPRET THE MEANING OF THE LAU DECISION.



WHICH OF THE GUIDELINES IN THE MAY 25 MEMO DID THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT FAIL TO MEET ACCORDING TO THE LAU DECISION?

THE COURT RULED THAT THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT FAILED TO MEET THE GUIDELINE WHICH STATED THAT:

"WHERE INABILITY TO SPEAK AND UNDERSTAND THE ENGLISH LANGUAGE EXCLUDES NATIONAL ORIGIN MINORITY GROUP CHILDREN FROM EFFECTIVE PARTICIPATION IN THE EDUCATIONAL PROGRAM OFFERED BY A SCHOOL DISTRICT, THE DISTRICT MUST TAKE AFFIRMATIVE STEPS TO RECTIFY THE LANGUAGE DEFICIENCY IN ORDER TO OPEN ITS INSTRUCTIONAL PROGRAM TO THESE STUDENTS."



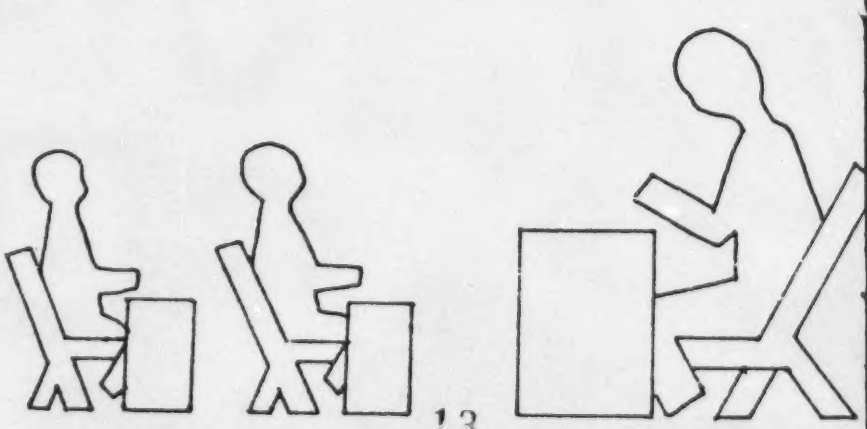
WHAT DID THE SUPREME COURT RULE IN THE LAU DECISION?

THE SUPREME COURT RULED THAT:

---THE SAME EDUCATIONAL SERVICES FOR ALL STUDENTS DOES NOT QUALIFY AS EQUAL OPPORTUNITY UNDER THE LAW.

---STUDENTS SHOULD RECEIVE EQUAL BENEFITS FROM THE EDUCATIONAL SYSTEM.

---SCHOOLS HAVE A LEGAL RESPONSIBILITY TO PROVIDE PROGRAMS APPROPRIATE TO THE SPECIAL NEEDS OF NON OR LIMITED ENGLISH SPEAKING CHILDREN.

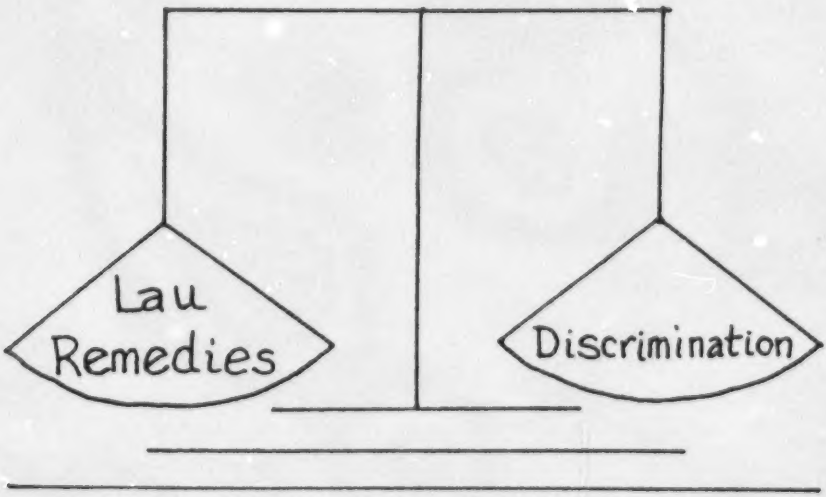


DO LOCAL SCHOOL SYSTEMS HAVE TO PAY ATTENTION TO THE LAU REMEDIES?

YES; BECAUSE THEY ARE CONSIDERED TO BE DHEW REGULATIONS, THEY ARE ENTITLED TO GREAT WEIGHT.

---THEY HAVE BEEN CITED BY THE COURTS IN MAKING DETERMINATIONS REGARDING DISCRIMINATION.

---THE OFFICE OF CIVIL RIGHTS VIEWS THE PROCEDURES AND PROGRAMS OUTLINED IN THE LAU REMEDIES AS APPROPRIATE WAYS TO MEET THE NEEDS OF NATIONAL ORIGIN MINORITY STUDENTS.



WHAT DO THE LAU REMEDIES REQUIRE?

THE LAU REMEDIES REQUIRE LOCAL SCHOOL SYSTEMS TO DEVELOP PROCEDURES TO:

---IDENTIFY STUDENTS WHO HAVE A PRIMARY OR HOME LANGUAGE OTHER THAN ENGLISH.

---IDENTIFY THE ACADEMIC NEEDS OF NON OR LIMITED ENGLISH SPEAKING STUDENTS.

---DEVELOP PROGRAMS APPROPRIATE TO THEIR NEEDS.

---ELIMINATE DISCRIMINATION IN REQUIRED OR ELECTIVE COURSES.

---ELIMINATE RACIAL/ETHNIC IDENTIFIABLE SCHOOLS OR CLASSES.

---NOTIFY PARENTS ABOUT AVAILABLE SCHOOL PROGRAMS.

---EVALUATE THE EFFECTIVENESS OF THE SCHOOL SYSTEM'S EFFORTS TOWARD PROVIDING EQUAL EDUCATIONAL OPPORTUNITIES.

WHAT KINDS OF PROGRAMS ARE APPROPRIATE FOR NON OR LIMITED ENGLISH SPEAKING STUDENTS?

---FOR ELEMENTARY SCHOOL CHILDREN, A BILINGUAL PROGRAM WITH AN ENGLISH AS A SECOND LANGUAGE COMPONENT IS THE ONLY APPROPRIATE KIND OF PROGRAM.

---FOR SECONDARY SCHOOL STUDENTS, A BILINGUAL PROGRAM, A HIGH INTENSIVE ENGLISH LANGUAGE TRAINING PROGRAM, OR AN ESL PROGRAM COUPLED WITH TUTORIAL HELP MAY BE APPROPRIATE, DEPENDING ON STUDENTS' NEEDS.

---IN ALL CASES, HOWEVER, THE INDIVIDUAL STUDENT'S NEEDS MUST BE TAKEN INTO CONSIDERATION.

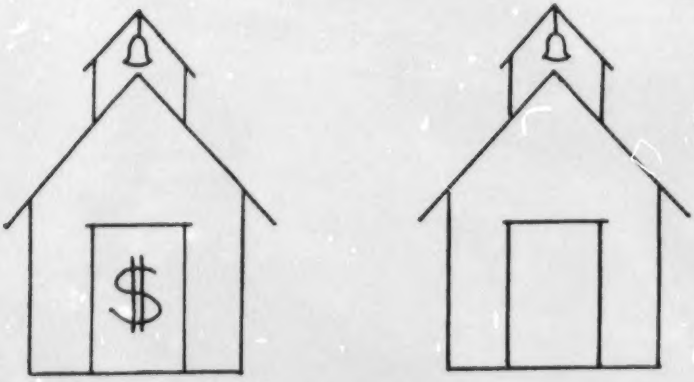
---ALL PROGRAMS MUST HELP TO BRING THE NON OR LIMITED ENGLISH SPEAKING STUDENT TO THE EDUCATIONAL PERFORMANCE LEVEL EXPECTED OF HIS/HER ENGLISH SPEAKING PEERS.

IS THERE ANY OTHER LAW WHICH GUARANTEES EQUAL EDUCATIONAL OPPORTUNITY TO NON OR LIMITED ENGLISH SPEAKING STUDENTS?

YES, THE EQUAL EDUCATIONAL OPPORTUNITY ACT OF 1974 DEFINES SIX ACTS CONSIDERED BY CONGRESS TO BE A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY. THE EQUAL EDUCATIONAL OPPORTUNITY ACT STATES THAT "A SCHOOL DISTRICT WHICH FAILS TO TAKE APPROPRIATE ACTION TO OVERCOME LANGUAGE BARRIERS THAT IMPEDE EQUAL PARTICIPATION BY ITS STUDENTS IN ITS INSTRUCTIONAL PROGRAM IS DENYING EQUAL EDUCATIONAL OPPORTUNITY TO LANGUAGE MINORITY STUDENTS." THIS ACT GIVES LANGUAGE MINORITIES A STATUTORY RIGHT TO DEMAND LANGUAGE PROGRAMS EFFECTIVE TO THEM.

TO WHOM DOES THE EQUAL EDUCATIONAL OPPORTUNITY ACT APPLY?

IT APPLIES TO ALL SCHOOL DISTRICTS REGARDLESS OF WHETHER THEY RECEIVE FEDERAL FINANCIAL ASSISTANCE.



WHAT DOES ALL THIS MEAN?

IT MEANS THAT SCHOOLS, REGARDLESS OF WHETHER THEY RECEIVE FEDERAL FUNDS, CANNOT DISCRIMINATE AGAINST NON OR LIMITED ENGLISH PROFICIENCY STUDENTS BY DENYING THEM THE LANGUAGE TRAINING THEY NEED IN ORDER TO PARTICIPATE IN THE EDUCATIONAL SYSTEM.

BARNEY BERUBE
ADMINISTRATOR

GLORIA LACHANCE
CONSULTANT

UNIT FOR
NATIONAL ORIGIN DESEGREGATION
MAINE DEPARTMENT OF EDUCATIONAL
AND CULTURAL SERVICES
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APPROPRIATION No. 3201 - 3138

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